

Examination of the Tunbridge Wells  
Borough Local Plan

**Tunbridge Wells Borough Council  
Hearing Statement**

**Matter 8: Meeting Housing  
Needs (Policies H1, H2, H3,  
H4, H5, H6, H7, H8, H9, H10,  
H11 and H12)  
Issue 9: Replacement Dwellings**

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# Matter 8 – Meeting Housing Needs (Policies H1, H2, H3, H4, H5, H6, H7, H8, H9, H10, H11 and H12)

## Issue 9 – Replacement Dwellings

### Inspector’s Question 1: [justification for only permitting replacement dwellings where structure is unsafe]

*What is the justification for only permitting replacement dwellings where the existing structure is unsafe?*

#### **TWBC response to Question 1**

1. As advocated in paragraph 8 (c) of the NPPF, one of the overarching objectives in achieving sustainable design, the environmental objective, is to use natural resources prudently, minimise waste and pollution, mitigate and adapt to climate change, and reduce carbon output. In line with this, Submission Local Plan (SLP) Policy EN1: Sustainable Design [see criterion 3 in policy box on page 326 of [CD 3.128](#)] and Policy H10: Replacement Dwellings outside the Limits to Built Development on pages 420 to 422, give priority to the retention and re-use of existing dwelling/structures and state that demolition should only be considered in certain circumstances.
2. These circumstances are set out at paragraph 6.399 in the supporting text to Policy H10 (on page 420 of the SLP) and at criterion 2 in the policy box on pages 421 and 422, in that:

*“2. Demolition of all or part of the existing dwelling must be justified on the basis that the existing structure is rendered unsafe; for example, unsound construction, or is inherently constructed to a poor quality/constructed of poor materials and it would not be viable to rectify these as part of a modernisation or refurbishment project. Demolition may also be justified where a building is poorly sited, such as immediately adjacent to a highway, or is considered to be unduly obtrusive by virtue of its design and/or use of materials”*

3. Moreover, Policy H10 does not seek to only permit dwellings (where found to be in accordance with all relevant policy) where the structure is unsafe, but also considers other factors such as those quoted above in terms of whether the building is of poor construction quality or poorly sited, etc.
4. In order to make this clearer within the policy wording, it is suggested that the wording of criterion 2 of Policy H10 above, be re-structured to read:

*Demolition of all or part of the existing dwelling must be justified on the basis that: -*

- a) the existing structure is rendered unsafe; for example, unsound construction, subsidence; or*
  - b) is inherently constructed to a poor quality/constructed of poor materials and it would not be viable to rectify these as part of a modernisation or refurbishment project.; or*
  - c) demolition may also be justified where a building is poorly sited, such as immediately adjacent to a highway, or is considered to be unduly obtrusive by virtue of its design and/or use of materials.*
5. However, if the Inspector is minded to allow for more flexibility in relation to criterion 2 of the Policy, then the Council would consider a modification to the wording.
  6. Furthermore, not only does the Council intend to minimise waste and reduce carbon footprint by retaining and reusing existing buildings where possible, but as stated at paragraph 6.397 in the supporting text to Policy H10 (see page 420 of the SLP), it ultimately seeks to minimise the impact of built development in rural areas to protect and conserve the intrinsic beauty, value, and locally distinctive character of the countryside. Therefore, only in appropriate circumstances will the rebuilding of a residential dwelling be allowed outside the Limits to Built Development.

## **Inspector’s Question 2: [reasons for criteria a) to d) and justification outside of Green Belt]**

***Where a dwelling is to be replaced, what are the reasons for criterion a) to d)? Are they justified in all locations, even outside areas of Green Belt?***

### **TWBC response to Question 2**

7. Paragraph 149(d) of the NPPF makes provision for replacement dwellings in the Green Belt:

*149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

*d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*

8. It is explained below, how and why criteria a) to d) of Policy H10 seek to address this in locations both within the Green Belt and other designated and non-designated areas beyond.

### **What are the reasons for criteria a) to d) of Policy H10: Replacement Dwellings outside the Limits to Built Development?**

#### **Criteria a) to d) of Policy H10**

9. Criteria a) to d) of Policy H10 are set out in the policy box on page 422 of the Submission Local Plan (SLP) [[CD 3.128](#)] as follows:

*“Where a dwelling is to be replaced:*

- a) The scale, form, external appearance, height, and massing of the replacement dwelling and any associated development and works, shall be no more visually obtrusive in the landscape than the original dwelling (the building as it existed on 1 July 1948, or, in the case of a building constructed after 1 July 1948, as it was first built) and shall be compatible with its rural location in terms of architectural and visual amenity, landscape setting, and any existing surrounding development;*
- b) Any proposed increase in volume, including any previous additions to the property, will not result in an increase of more than 50 percent of the gross volume of the original dwelling (the gross volume will be ascertained by external measurements*

*taken above ground level and include the volume of the roof), subject to a maximum of 250 cubic metres (gross). All other existing outbuildings, including garages, will be excluded from the calculation of the volume of the original dwelling. If the existing dwelling has already been extended by 50 percent (or more) above the original, then no further increase in volume will be permitted for the replacement dwelling;*

- c) The replacement dwelling shall be located on the footprint of, or as close as practically possible to, the existing dwelling, unless an alternative location would result in clear landscape, access, or local amenity benefits. In the event that the dwelling is relocated, the removal of the existing dwelling upon completion of the new dwelling will be secured by way of planning condition or legal agreement;*
- d) The proposal shall not cause significant harm to the amenities of occupiers of neighbouring properties and uses in terms of loss of privacy, immediate outlook, daylight, and sunlight.”*

10. As set out in paragraph 6.397 in the supporting text to Policy H10 on page 420 of the Submission Local Plan (SLP) [[CD 3.128](#)], the Council seeks to minimise the impact of built development in rural areas to protect and conserve the intrinsic beauty, value, and locally distinctive character of the countryside. It also seeks to retain the openness of the Green Belt. Therefore, only in appropriate circumstances will the rebuilding of a residential dwelling outside the LBD be allowed. This approach is especially important as almost 70% of the borough is designated as High Weald AONB, which is of national significance and recognised as an important medieval landscape, and around 22% of the western part of the borough is designated as Green Belt. Together, the AONB and Green Belt cover 75% of the borough, with substantial overlaps.

11. This approach is advocated by paragraphs 174 a) and b) of the NPPF, which state that:

*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes...;*
- b) recognising the intrinsic character and beauty of the countryside...’*

12. Paragraph 6.401 of the supporting text to Policy H10 goes on to state that “Where a replacement dwelling is to be considered, the size, form, height, design, external appearance, and massing of both the existing and proposed dwelling, and the impact each has on the landscape setting and visual amenities of the area, will be key factors taken into account when assessing the suitability of a replacement dwelling.”
13. Criterion a) makes provision for the scale, form, external appearance, height, and massing of any proposal and that it should have minimal impact on the visual amenity and setting of the surrounding rural landscape. It also assists in clearly defining what is considered to be the original dwelling (as defined by the NPPF) to work with as a starting point.
14. Criterion b) sets out the volumetric limits, advising that an increase in the volume of a replacement dwelling by up to 50% with a maximum of 250 cubic metres may be permissible. This is considered to allow some flexibility and provide clear parameters and expectations in terms of how much a replacement dwelling may be increased by, whilst providing an appropriate limit to minimise its visual impact on the surrounding rural landscape. As stated above, paragraph 149 (d) of the NPPF advises that replacement dwellings should not be ‘materially’ larger than the ones they are to replace.
15. Criterion c) makes provision for the siting of a replacement dwelling, advising that it should be located on, or as close as possible to, the existing footprint unless an alternative location would result in clear landscape, access, or local amenity benefits.
16. It is therefore considered that Criteria a) to c) of Policy H10 are justified in that they seek to minimise the visual impact of a proposal on the surrounding countryside in terms of its scale, form, massing and siting, so that any replacement dwelling will be no more visually obtrusive in the rural landscape than the existing dwelling. This is with the overall interest of protecting and conserving, and in some cases enhancing (such as where the dwelling may be re-sited to a better position in the plot), the intrinsic beauty, value, and locally distinctive character of the countryside and the openness of the Green Belt.
17. With regard to criterion d) it is considered that this is justified in that it will reduce any significant harm caused by new development (such as overlooking and loss of daylight)

to the amenities of adjacent and nearby properties, in accordance with theme 6 – Residential Amenity of SLP Policy EN1: Sustainable Design (see page 328 of the SLP).

**Are criteria a) to d) justified in all locations, even outside areas of Green Belt?**

18. As advocated in paragraph 8 (c) of the NPPF, one of the overarching objectives in achieving sustainable design - the environmental objective, is to protect and enhance our natural, built and historic environment.
19. Also, Planning Policy Guidance (PPG) (Paragraph: 036 [Reference ID: 8-036-20190721](#)) advises that the following approach should be applied to all proposals which affect the natural landscape:

*“The National Planning Policy Framework is clear that plans should recognise the intrinsic character and beauty of the countryside, and that strategic policies should provide for the conservation and enhancement of landscapes. This can include nationally and locally-designated landscapes but also the wider countryside.”*

*Where landscapes have a particular local value, it is important for policies to identify their special characteristics and be supported by proportionate evidence. Policies may set out criteria against which proposals for development affecting these areas will be assessed. Plans can also include policies to avoid adverse impacts on landscapes and to set out necessary mitigation measures, such as appropriate design principles and visual screening, where necessary. The cumulative impacts of development on the landscape need to be considered carefully.”*

20. With regard to the Submission Local Plan, the following objectives and policies are considered to reflect the above NPPF and PPG advice, in terms of justifying criteria a) to d) in areas outside of the Green Belt:
21. Strategic Objective 8 on page 32 is:
- 8. To conserve and enhance the valued historic, built, and natural environments of the borough, including the High Weald Area of Outstanding Natural Beauty, and to achieve net gains for nature;*
22. Criteria 1 and 3 of Strategic Policy STR8: Conserving and Enhancing the Natural, Built, and Historic Environment on page 64 of the SLP state:



*“1. Development should contribute to, and enhance, the urban and rural landscapes of the borough, with particular regard to the designated High Weald Area of Outstanding Natural Beauty; ....*

*3. Development proposals must be informed by a clear understanding of the landscape context (on- and off-site) and demonstrate how it has incorporated and enhanced site characteristics and landscape features, avoiding and minimising harm wherever possible.”*

23. Development Management Policy EN18: Rural Landscape (page 376 of the SLP):

- Paragraph 6.224 of this policy states that the rural landscape of the borough *“includes attractive small towns and villages, many of which are covered by the High Weald AONB designation. The character and attractive appearance of the countryside is one of the principal assets of the borough, and its protection will be an important consideration during the assessment of all development proposals.”*
- While paragraph 6.229 explains that the borough is covered by two National Character Area profiles for landscape: 121 Low Weald and 122 High Weald, and its own Borough Landscape Character Assessment SPD [[PS 019](#)], and that these documents amongst others listed at paragraph 6.229 will be used in assessing the likely effects of development on the landscape.
- Paragraph 6.230 states *“In accordance with the European Landscape Convention, the Local Planning Authority will view the landscape as a resource that will be protected as a whole, and not just the designated sites or areas. This includes urban and rural, degraded or outstanding landscapes and the features that they support, such as wooded shaws, hedgerows, ponds, and ancient routeways.”*

### **Area of Outstanding Natural Beauty (AONB)**

24. As well as the Green Belt designation which covers around 22% of the western part of the borough, as mentioned above, almost 70% of the borough is designated as High Weald AONB which is of national significance. Although the AONB designation substantially overlaps with the Green Belt, around 50% of it would be located outside of, and beyond, the Green Belt.

25. Paragraph 176 of the NPPF states:

*“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues”*

26. SLP Policy EN19: The High Weald Area of Outstanding Natural Beauty (see policy box on pages 380 and 381) states:

*“All development within, or affecting the setting of, the High Weald Area of Outstanding Natural Beauty (AONB) shall seek to conserve and enhance its landscape and scenic beauty, having particular regard to the impacts on its character components, as set out in the High Weald AONB Management Plan.*

*Development in the AONB should be limited in scale and extent, appropriate in terms of its nature and location, and should demonstrate a positive contribution to the objectives of the AONB Management Plan.”*

## **Conclusion**

27. In summary, criteria a) to d) of Policy H10 are considered to be justified and in accordance with both national and local policy. Criteria a) to c) seek to minimise the visual impact of a proposal in terms of its scale, form, massing and siting, so that any replacement dwelling will be no more visually obtrusive in the rural landscape than the existing dwelling, in the interests of protecting and conserving the intrinsic beauty, value, and locally distinctive character of the countryside - whether it be of designated or non-designated status, including areas outside of the Green Belt. The rural landscape is a key asset of the borough.

## Inspector's Question 3: [consideration of replacement dwellings inside the LBD]

***How will proposals for replacement dwellings inside Limits to Built Development be considered?***

### **TWBC response to Question 3**

28. As set out in the response to Question 9 under Matter 3, Issue 3 (Limits to Built Development) [TWLP/016], Strategic Policy STR1: the Development Strategy (see Section 4, page 35 of the Submission Local Plan [CD 3.128] and pages 7 and 8 of the Limits to Built Development Topic Paper [CD 3.82]) is the starting point and overarching policy which sets the overall approach to be taken to development both within and outside Limits to Built Development (LBD).
29. Paragraph 4.49 states that:
- “The development strategy retains the use and definition of Limits to Built Development (LBDs) around settlements, as 'policy lines' indicating where development would be acceptable in principle, subject to other Plan policies, and where a more restrictive approach is appropriate, this is also set out in the policy”*
30. Criterion 2 of this policy:
- “Looks to focus new development within the Limits to Built Development of settlements, as defined on the Policies Map, where proposals accord with other relevant policies of this Plan”.*
31. While criterion 9:
- “Normally limits development in the countryside (being defined as that outside the Limits to Built Development) to that which accords with specific policies of this Plan and/or that for which a rural location is fully demonstrated to be necessary.”*
32. Proposals for replacement dwellings inside the LBD will be primarily considered against Submission Local Plan [CD 3.128] Strategic Policy STR2: Place Shaping and Design (see Section 4, pages 45 and 46) and Development Management Policy EN1: Sustainable Design (see Section 6, pages 323 to 331). These policies set out the requirements for all new development both inside and outside the LBD in respect of

design, character and site context; highway safety and access; water/flooding issues; landscape, trees, and amenity; biodiversity; and residential amenity. Each proposal would be assessed on its merits against the relevant criteria; and in accordance with criterion 2 under Section 1 of Policy EN1, the retention and re-use of existing buildings, rather than replacement, is encouraged in the first instance (and is considered in further detail under Question 1 above).

33. In addition to the above policies and any relevant design policies in 'made' Neighbourhood Plans, depending on the location, context and site constraints, proposals for replacement dwellings may also be considered using other SLP [[CD 3.128](#)] Development Management Policies such as:
- EN5: Heritage Assets (pages 340 to 346)
  - EN9: Biodiversity Net Gain (pages 355 to 358)
  - EN12: Trees, Woodland, Hedges and Development (pages 364 to 367)
  - EN16: Landscape within the Built Environment (pages 370 to 374)
  - EN25: Flood Risk (pages 390 to 392)
  - EN26: Sustainable Drainage (pages 392 to 394)
  - EN27: Noise (pages 395 to 397)
  - EN28: Land Contamination (pages 397 to 399)
  - TP3: Parking Standards (pages 464 to 470)
34. It is also expected that such development proposals would be assessed having regard to the list of guidance documents (both national and local) set out under paragraph 6.24 in the supporting text to Policy EN1: Sustainable Design (see page 325 of [CD 3.128](#)), where relevant.